

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NO.: 18255-AD19-0523-053

IN THE MATTER OF:)

Desmond Boone)
8423 N. River Dune St.,)
Tampa, FL 33617)

Applicant.)

License Application # 710810)

Type of Agency Action: Enforcement)

FILED

OCT 25 2019

STATE OF INDIANA
DEPT. OF INSURANCE

FINAL ORDER

On September 6, 2019, the Administrative Law Judge, Reuben B. Hill, filed his Findings of Fact, Conclusions of Law and Recommended Order in the above-captioned matter.

1. The Department served Findings of Fact, Conclusions of law, and Recommended Order on Respondent by mailing the same to his address of record.

2. The Department has complied with the notice requirements of Ind. Code §4-21.5-3-17.

3. Neither party has filed an objection with the Commissioner regarding the Administrative Law Judge's Findings of Fact, Conclusions of Law and Recommended Order, and more than eighteen (18) days have elapsed.

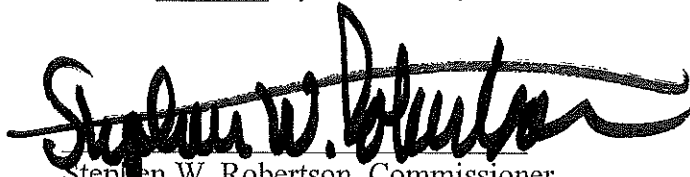
Therefore, the Commissioner of Insurance, being fully advised, now hereby adopts in full the Administrative Law Judge's Findings of Fact, Conclusions of Law, and Recommended Order and issues the following Final Order:

IT IS THEREFORE ORDERED by the Commissioner of Insurance:

1. Denial of the Applicant's nonresident producer license under license number 710810
is AFFIRMED.

Under Ind. Code §4-21.5-5-5, Respondent has the right to appeal this Final Order by filing a petition for Judicial review in the appropriate court within thirty (30) days.

ALL OF WHICH IS ORDERED by the Commissioner this 25 day of October, 2019.


Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Copies to:

Desmond Boone
8426 N. River Dune St.,
Tampa, FL 33617

Victoria Hastings, Attorney
Indiana Department of Insurance
311 W. Washington St., Suite 103
Indianapolis, IN 46204

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

IN THE MATTER OF:)

Desmond Boone)
8423 N. River Dune St.)
Tampa, Florida 33617)

Applicant.)

Type of Agency Action: Enforcement)

License Application # 710810)

CAUSE NO.:18255-AD19-05223-053

FILED

SEP 06 2019

STATE OF INDIANA
DEPT. OF INSURANCE

**FINDINGS OF FACT, CONCLUSIONS OF LAW
AND RECOMMENDED ORDER**

Administrative Law Judge Reuben B. Hill ("ALJ"), having heard, reviewed and considered all of the evidence, now renders a decision concerning the matter of Desmond Boone ("Applicant"). This matter came on to be heard by the ALJ on July 17, 2019 at 10:00 a.m. at the Indiana Department of Insurance at 311 West Washington Street, Indianapolis, Indiana.

The Enforcement Division of the Indiana Department of Insurance ("Department") was represented by counsel, Victoria Hastings. Applicant appeared in person and without counsel. Testimony was heard, and exhibits were received into evidence.

Based upon the evidence presented at said hearing, the ALJ now makes the following Findings of Fact, Conclusions of Law, and issues his Recommended Order.

FINDINGS OF FACT

1. Applicant submitted his application for Non-Resident Producer License on May 8, 2019.
(Hearing Transcript p. 13)
2. Applicant answered “no” to the application question that asks, “Have you ever been convicted of a misdemeanor”? (Department’s Exhibit 1)
3. Applicant answered “no” to the application question that asks, “Have you ever been convicted of a felony, had a judgment withheld or deferred, or are you currently charged with committing a felony”? (Department’s Exhibit 1)
4. Applicant answered “no” to the application question that asks, “Have you ever been involved in an administrative proceeding”? (Department’s Exhibit 1)
5. The Commissioner entered his Preliminary Administrative Order and Notice of License Denial on May 31, 2019, denying Applicant’s application for license, due to Applicant’s criminal history, administrative actions, and Applicant’s failure to disclose same.
6. On or around July 18, 1994, Applicant pleaded guilty to Robbery, a Third-Degree Felony, in the State of Florida. (Department’s Exhibit 3)
7. Applicant testified that adjudication was withheld for the felony charge of Robbery as long as Applicant completed certain requirements, including probation and community service, which Applicant testified were completed. (Hearing Transcript p. 19-20)
8. On or around January 9, 2013, Applicant was convicted for Possession of Cannabis, a Class F Misdemeanor, in the State of Florida. (Department’s Exhibit 2)

9. Applicant failed to disclose the felony charge and misdemeanor conviction on his Indiana Non-Resident Producer application for license. (Department's Exhibit 1)
10. Applicant testified that he also failed to disclose his 1994 felony charge for Robbery on his Florida application for license. (Hearing Transcript p. 21-22)
11. On January 8, 2016, Applicant entered into a Consent Order with the Florida Department of Insurance. (Department's Exhibit 3)
12. Applicant entered into the Consent Order with the Florida Department of Insurance due to Applicant's felony charge for Robbery and for his failure to disclose same on his Florida Application for license. (Department's Exhibit 3)
13. On March 9, 2016, the Florida Department of Insurance issued a subsequent Suspension Order against Applicant for the failure to timely comply with the Consent Order. (Department's Exhibit 4)
14. Applicant failed to disclose the two (2) 2016 Florida Department of Insurance Administrative actions on his Indiana Non-Resident Producer application for license. (Department's Exhibit 1)
15. Applicant testified that he was the individual that personally filled out his Indiana Non-Resident Producer application for license and submitted it. (Hearing Transcript p. 17)
16. Applicant testified that he did fail to disclose his criminal charge of Robbery, a Third-Degree Felony, a misdemeanor conviction for Possession of Cannabis, and the two Florida Department of Insurance administrative actions. (Hearing Transcript p. 18-21)
17. Applicant did not submit any exhibits at the hearing.
18. The Department admitted four (4) exhibits at the hearing. The Department's Exhibit 1 was Applicant's Indiana Non-Resident Producer application from the National Insurance

Producer Registry, dated May 8, 2019. The Department's Exhibit 2 was Applicant's Chronological Case Summary for Applicant's conviction for Possession of Cannabis.

The Department's Exhibit 3 was the Consent Order from the Florida Department of Insurance, dated January 8, 2016. The Department's Exhibit 4 was the Suspension Order from the Florida Department of Insurance, dated March 9, 2016.

19. Conclusions of Law that can be adopted as Findings of Fact are hereby incorporated herein as such.

CONCLUSIONS OF LAW

1. The Commissioner of the Indiana Department of Insurance ("Commissioner") has jurisdiction over both the subject matter and the parties to this action.
2. This hearing was held in compliance with the Administrative Orders and Procedures Act of the Indiana Code.
3. Indiana Code 27-1-15.6-12(b) states that the Commissioner may deny to issue an Insurance Producer License, due to a number of factors.
4. Indiana Code 27-1-15.6-12(b)(1) allows the Commissioner to deny an Insurance Producer License for providing incorrect misleading, incomplete, or materially untrue information in a license application.
5. Indiana Code 27-1-15.6-12(b)(9) allows the Commissioner to deny an Insurance Producer License for having an Insurance Producer License or its equivalent, denied, suspended, or revoked in any other state.
6. Applicant pleaded guilty on or around July 18, 1994, to Robbery, a Third Degree in Felony, with adjudication be withheld. Applicant was convicted on or around January 9,

- 2013, for Possession of Cannabis, a Class F Misdemeanor. Applicant failed to disclose the felony charge and misdemeanor conviction on his Indiana application for license.
7. Applicant entered into a Consent Order with the Florida Department of Insurance on January 8, 2016 and had a subsequent Suspension Order from the Florida Department of Insurance on March 9, 2016. Applicant failed to disclose the two (2) 2016 Florida administrative actions on his Indiana application for license.
 8. Indiana Code 4-21.5-3-14(c) states that the person requesting an agency take action has the burden of persuasion and the burden of going forward. Applicant is requesting that the Department issue him a Non-Resident Producer License and, therefore, bears the burden.
 9. Pursuant to Indiana Code 27-1-15.6-12(d), a hearing was held to determine the reasonableness of the Commissioner's decision. Applicant failed to meet his burden of proving the Commissioner's decision was unreasonable.
 10. Findings of Fact that can be adopted as Conclusion of Law are hereby incorporated herein as such.

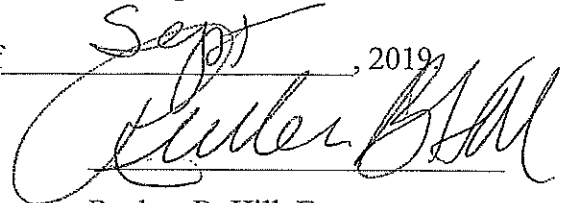
RECOMMENDED ORDER

IT IS THEREFORE RECOMMENDED:

In consideration of the foregoing Findings of Fact and the Conclusions of Law as stated, the Administrative Law Judge now recommends to the **Commissioner of Insurance** the following:

1. The denial of the Applicants Non-Resident Producer License under License Number 710810 shall be **AFFIRMED**.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the Commissioner of Insurance this 6 day of Sept, 2019



Reuben B. Hill, Esq.
Administrative Law Judge

Distribution: 46204

Desmond Boone
8426 N. River Dune St.
Tampa, Florida 33617

Victoria Hastings, Attorney
Indiana Department of Insurance
311 W. Washington St., Suite 103
Indianapolis, Indiana

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NO.: 18255-AD19-0523-053

IN THE MATTER OF:

Desmond Boone
8423 N. River Dune St.,
Tampa, FL 33617

Applicant.

Type of Agency Action: Enforcement

Application ID: 710810

FILED

MAY 31 2019

STATE OF INDIANA
DEPT. OF INSURANCE

PRELIMINARY ADMINISTRATIVE ORDER
AND NOTICE OF LICENSE DENIAL

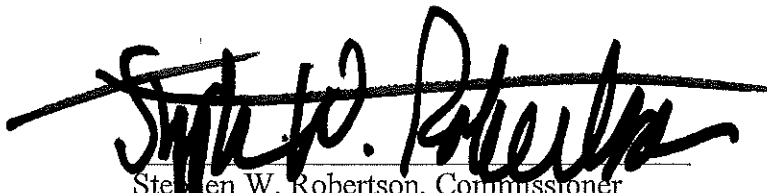
The Indiana Department of Insurance, pursuant to the Indiana Administrative Orders and Procedures Act, Indiana Code § 4-21.5-1 *et seq.* and Indiana Code § 27-1-15.6-12, hereby gives notice to Desmond Boone ("Applicant") of the following Administrative Order:

1. Applicant submitted an application for nonresident producer licensure with the Commissioner of the Indiana Department of Insurance ("Commissioner") on May 8, 2019.
2. Before approving an application, the Commissioner must find that the applicant has met specific requirements under Indiana Code § 27-1-15.6-8 and Indiana Code § 27-1-15.6-12.
3. Indiana Code § 27-1-15.6-12(b)(1) provides, in part, that the Commissioner may refuse to issue an insurance producer license for providing incorrect, misleading, incomplete, or materially untrue information in a license application.
4. Indiana Code § 27-1-15.6-12(b)(6) provides, in part, that the Commissioner may refuse to issue an insurance producer license for having been convicted of a felony.

5. Indiana Code § 27-1-15.6-12(b)(9) authorizes the Commissioner to deny a producer's license for having an insurance producer license or its equivalent, denied, suspended, or revoked in any other state.
6. Following a review of public records and the materials submitted by Applicant in support of his application, the Commissioner being fully advised, now hereby notifies Applicant that he has not fully met the requirements of licensure as stated by Indiana Codes §§ 27-1-15.6-12(b)(1), 27-1-15.6-12(b)(6), and 27-1-15.6-12(b)(9) due to his failure to disclose the April 4, 1994 conviction for Robbery, a Third Degree Felony, a November 5, 2012 conviction for Possession of Cannabis, a Class F Misdemeanor, a January 8, 2016 Consent Order from the Florida Department of Insurance, and a March 9, 2016 Suspension Order from the Florida Department of Insurance.
7. Indiana Code § 27-1-15.6-12(d) provides that the applicant may, not more than sixty-three (63) days after notice of denial of the application is mailed, make written demand to the Commissioner for a hearing before the Commissioner to determine the reasonableness of the Commissioner's action.

IT IS THEREFORE ORDERED that Applicant's request for licensure is hereby DENIED pursuant to Indiana Codes §§ 27-1-15.6-12(b)(1), 27-1-15.6-12(b)(6), and 27-1-15.6-12(b)(9) due to Applicant's criminal history including a felony conviction, prior administrative actions, and failure to disclose same. Applicant may reapply for licensure not less than one (1) year from the date of this order.

5-31-2019
Date Signed


Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Distribution to:

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